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SERVICE DATE – NOVEMBER 10, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 413X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY–
ABANDONMENT EXEMPTION–IN WASHINGTON COUNTY, MN

Decided: November 9, 2004

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 0.99-mile line of railroad between BNSF milepost 11.81 and milepost 12.80 in Stillwater, Washington County, MN. Notice of the exemption was served and published in the Federal Register on May 28, 2004 (69 FR 30747). The exemption became effective on June 29, 2004.

By decision served June 25, 2004, the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA) and the exemption was made subject to the condition that BNSF retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA). This historic condition was imposed because SEA indicated that the Minnesota Historical Society (the State Historic Preservation Office or SHPO) had responded to BNSF's historical report, but had not completed its assessment of the proposed abandonment at the time the EA was prepared. SEA also indicated that the SHPO had requested additional information from BNSF, including information on future plans.

On October 27, 2004, SEA sent to the Advisory Council on Historic Preservation (ACHP) a letter with a copy of a Memorandum of Agreement (MOA) executed by the Board, BNSF, the SHPO, and the Stillwater Historic Preservation Commission that was negotiated to comply with the section 106 process. SEA states that the filing of the MOA with the ACHP completes the Board's compliance responsibilities under section 106 of the NHPA. Therefore, SEA recommends that the section 106 historic preservation condition imposed in the June 25, 2004 decision be removed.

The June 25 decision also imposed five other conditions that required BNSF to: (1) notify the National Geodetic Survey at least 90 days prior to salvage activities to plan for the relocation of one geodetic station marker; (2)(a) consult with the National Park Service, St. Croix National Scenic Riverway (SCNSR) (Jill Medland at 715-483-3284), prior to commencement of any salvage activities on this project, to identify the appropriate mitigation measures that may be warranted, (b) if it is determined that the abandonment would impact the water quality of the St. Croix River, contact the

Minnesota Department of Natural Resources, Natural Heritage and Nongame Research Program, prior to commencement of any salvage activities on this project, and (c) report the results of these consultations to SEA; (3) consult with Nick Chevance at the National Park Service's Midwest Regional office prior to commencement of any salvage activities to determine the possible impacts to the SCNSR, and report the results of this consultation to SEA; (4) prior to commencement of any salvage activities on this project, contact the U.S. Environmental Protection Agency, Region 5 (Kathleen Kowal, 312-353-5206), concerning removal and salvage methods, final disposition of crossties preserved with creosote, procedures for storing and fueling of construction equipment, procedures for the prevention and/or control of spills, and stormwater runoff mitigation practices to be utilized during abandonment activities; and (5) contact the U.S. Fish and Wildlife Service prior to commencement of any salvage activities on this project. SEA has advised that BNSF has now fulfilled these remaining five conditions. Therefore, SEA recommends that these conditions be removed as well.

Accordingly, the proceeding will be reopened and the six previously imposed environmental conditions will be removed.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the six environmental conditions imposed in the June 25, 2004 decision are removed.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary